

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HELENA KRIZEK, Birth Mother of  
Bianca Helen Krizek (Decedent),

Plaintiff-Appellant,

v.

THE QUEEN'S MEDICAL CENTER;  
WENDY W. HSU, official and individual  
capacity; HAO CHIH HO, official and  
individual capacity; HAWAII  
RESIDENCY PROGRAM, (HRP);  
NOBUHIRO ARIYOSHI, official and  
individual capacity,

Defendants-Appellees,

and

ITTIKORN SPANUCHART, official and  
individual capacity; CHRISTOPHER  
HAPPY, official and individual capacity;  
HAWAII CORONER; CITY AND  
COUNTY OF HONOLULU; T. SCOTT  
GALLACHER, official and individual  
capacity; MATTHEW DUMOUCHEL,  
official and individual capacity,

No. 23-15026

D.C. No.

1:18-cv-00293-JMS-WRP

MEMORANDUM\*

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Defendants.

Appeal from the United States District Court  
for the District of Hawaii  
J. Michael Seabright, District Judge, Presiding

Submitted September 18, 2024\*\*  
San Francisco, California

Before: O'SCANNLAIN, FERNANDEZ, and SILVERMAN, Circuit Judges.

Helena Krizek appeals pro se from the district court's denial of her motion for a new trial in a wrongful death action that proceeded against Dr. Wendy W. Hsu, Dr. Hao Chih Ho, Dr. Nobuhiro Ariyoshi, The Queen's Medical Center, and Hawaii Residency Programs, Inc. (collectively, "Appellees"). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Appellees request dismissal of this appeal because Krizek's briefing does not cite to the record and is therefore noncompliant with Fed. R. App. P. 28(a)(6), (a)(8)(A). *See, e.g., Han v. Stanford Univ.*, 210 F.3d 1038, 1039–40 (9th Cir. 2000). Because Krizek appeals pro se, we reject this request. *See Lim v. I.N.S.*,

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\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

224 F.3d 929, 934 (9th Cir. 2000); *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 698–99 (9th Cir. 1988).

We decline to consider Krizek's sole argument, made for the first time on appeal, that the district court abused its discretion by denying her motion for a new trial because it improperly excused Dr. Ariyoshi from appearing at trial. By failing to raise this argument in the district court, she waived her objection. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam); *see also Armstrong v. Brown*, 768 F.3d 975, 981 (9th Cir. 2014). Moreover, the record does not support Krizek's contention. It shows that she declined an opportunity to investigate the asserted reasons for Dr. Ariyoshi's unavailability and stipulated to his dismissal.

**AFFIRMED.**